



American Payroll Association

Government Relations • Washington, DC

Testimony of Cathy Beyda
Chair, American Payroll Association Government Relations Task Force,
Subcommittee on Payroll Cards

In Support of S.B. 908, with amendments

State of Connecticut Joint Committee on Labor and Public Employees
February 26, 2015

On behalf of the American Payroll Association¹ (APA), I urge members of the Joint Committee on Labor and Public Employees to **support S.B. 908, with amendments**, An Act Allowing Employers to Pay Wages Using Payroll Cards.

Payroll cards are no longer cutting edge. They are now a mainstream method of wage payment. Indeed, in 2013, employers loaded wages onto approximately 5 million payroll cards.² Yet, Connecticut remains one of only two states whose Department of Labor does not recognize payroll cards to be a permissible method of wage payment. S.B. 908 would remedy this situation and make clear that employers may offer this beneficial payment method to their employees as a voluntary alternative to direct deposit and paper paychecks.

We recognize that the version of the bill before the Committee may not address the concerns of some stakeholders, and are working closely with groups like the Legal Assistance Resource Center of Connecticut and the Connecticut Bankers Association to produce a balanced amendment.

The Benefits of Electronic Wage Payment Are Undeniable

Electronic wage payment provides numerous benefits to employees and employers alike. These benefits include increased security³ and convenience, as well as prompt access to full wages regardless of employee location and when faced with unexpected contingencies such as severe

¹ The American Payroll Association is a nonprofit professional association representing more than 20,000 individuals and their companies in the United States. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA's Government Relations Task Force works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government, employers, and individual workers.

² Mercator Advisory Group, *Eleventh Annual U.S. Prepaid Cards market Forecasts, 2014-2017* (November 2014).

³ Payroll cards are subject to Federal Regulation E, which includes many important consumer protections. See 12 C.F.R. § 1005.18. For example, Regulation E limits cardholder liability when a lost or stolen card is used fraudulently. It also requires the adoption of dispute resolution procedures and that all terms, conditions and fees be clearly disclosed. In addition, all of the benefits offered on debit products by the major payment brands also are available on the brand's payroll cards and are free of charge. These include purchase protection, dispute resolution procedures and zero liability fraud programs.

conditions and natural disasters. Electronic wage payment can also result in cost savings for both employees and employers. Unfortunately, however, a surprisingly large number of employees are unable to participate in direct deposit because they do not have bank accounts or have limited access to traditional banking services. A 2013 study by the Federal Deposit Insurance Corporation found that 20% of all Connecticut households are either unbanked (having no checking or savings account) or underbanked (having a checking or savings account, but still reliant on alternative financial services such as check cashing).⁴ These workers often have no choice but to rely on expensive alternative financial services, such as check cashers, to access their wages.⁵

Many consumer advocates and government regulators agree that payroll cards can be a very beneficial option for these underserved workers. For example, Javier Palomarez, President and CEO of the United States Hispanic Chamber of Commerce, published an Op-Ed emphasizing that:

Payroll cards offer those with no banking access a dependable option for protecting their finances. Empowering our citizens with this much needed access, security, and convenience of prepaid payroll cards allows the unbanked to save more of what they earn and helps them build a solid financial foundation.⁶

The Center for Financial Services Innovation recognizes that:

[P]ayroll cards can serve as an important tool for building long-term financial health. According to the Consumer Federation of America, only one fourth of the lowest-income workers receive their wages via direct deposit into a bank account, compared with more than 80 percent of the highest-income workers. For these low-income employees without a bank account, payday arrives either in the form of cash, which can easily be lost or stolen, or a paper check, which requires a costly and often time-consuming visit to a check casher.⁷

As a final example, New York State Attorney General Eric T. Schneiderman has observed that:

[Payroll] cards can lead to numerous benefits for employers and employees, including cost savings for employers and convenience and lowered expenses for those employees who might otherwise use check cashing outlets. Payroll cards can be helpful for delivering wages in inclement weather or a disaster, and paperless payroll also brings environmental benefits.⁸

Despite these benefits, prior legislative initiatives that would have recognized payroll cards in Connecticut have failed. Each time, a desire to find a perfect (yet unsustainable) solution for underserved workers has prevented the enactment of legislation that would greatly improve the

⁴ FDIC National Survey of Unbanked and Underbanked Households (Oct. 2014), available at <https://www.fdic.gov/householdsurvey/2013appendix.pdf>.

⁵ Check cashing services in Connecticut may lawfully charge up to 2% of the face amount of the check or \$1, whichever is greater. Conn. Gen Stat. § 36a-585-1; Regs. Conn. State Agencies § 36a-585-1.

⁶ For another excellent discussion of payroll cards from an organization committed to protecting low wage earners, see Benjamin Mangan, *Stop Blacklisting Payroll Cards for Worker*, <http://www.linkedin.com/today/post/article/20130710205603-132220-stop-blackballing-payroll-cards-for-workers>.

⁷ CFSI, *The Compass Guide to Payroll Cards* (Jan. 2015), citing Consumer Federation of America, *Can Consumers Avoid Check Cashing Fees?* (Oct. 2012).

⁸ New York State Attorney General, Eric T. Schneidermann, *Pinched by Plastic: The Impact of Payroll Cards on Low-Wage Workers* (June 2014).

situation for Connecticut's underserved workers without imposing unnecessary and prohibitive restrictions on employers.

Employees Can, and Do, Use Payroll Cards without Incurring Fees

A common misconception regarding payroll cards is that employees must incur fees to access their wages. To the contrary, employees who use payroll cards are able to access their full net wages each pay period without ever incurring a fee. Indeed, an August 2012 study by the Payment Cards Center of the Federal Reserve Bank of Philadelphia confirmed that many employees who use payroll cards do so without ever incurring a fee, and those who do incur fees could have avoided them.⁹

It is important to emphasize that, today, the vast majority of payroll cards are branded, meaning that they bear the logo of a major payment brand (e.g., Visa, MasterCard, Discover). These cards can be used anywhere that the payment branded is accepted. Indeed, employees can take their payroll cards to the teller at any financial institution that is a member of the payment brand (over 90,000 branch locations nationwide) and receive their full net wages without fees at least once each pay period. Compare this to an underserved employee who is paid by check and who may or may not be provided with even one location (e.g., the bank that issues the check) to cash the check without cost. Employees also may choose to use their cards to make point-of-sale purchases, receive cash back from point-of-sale transactions, make purchases by mail, phone or Internet and pay their bills online. In light of this flexibility, the APA supports an amendment to S.B. 908 that would require that all payroll cards be branded, thereby guaranteeing that employees can use their payroll cards without even incurring fees.

We anticipate that some stakeholders may point to a June 2014 study by the New York Attorney General as evidence that employees do in fact incur significant fees when using payroll cards.¹⁰ A thoughtful review of the data reveals just the opposite, however. For example, the study showed that 25% to 30% of employees of a subset of employers used their payroll card for over a year without ever incurring a fee.¹¹ Presumably, the remaining 70% to 75% could have done so as well, but for reasons of convenience or otherwise incurred at least one fee during the same one year period. Noticeably absent from the report is any mention of the number or amount of fees incurred by these employees.

The Report did specify the amount of fees incurred by one group of employees, however. Specifically, the Report noted that one payroll card vender received almost \$70,000 in fees for transactions undertaken by fewer than 5,000 cardholder employees over a one year period. Rather than demonstrating that employees were charged significant fees at ATMs, as intended, these figures reveal that the employees incurred an average of \$14 each over a one year period using their payroll cards, far less than they would have incurred with paper checks or checking accounts.

⁹ S. Wilshusen, R. Hunt, J. van Opstal, and R. Schneider, *Consumers' Use of Prepaid Cards: A Transaction-Based Analysis* (FRB of Philadelphia Payment Cards Center, August 2012).

¹⁰ New York State Attorney General, Eric T. Schneidermann, *Pinched by Plastic: The Impact of Payroll Cards on Low-Wage Workers* (June 2014).

¹¹ The Attorney General's Office calculated this statistic from information obtained from six of the 38 employers surveyed who provided detailed fee information including the number of employees that used their payroll cards without incurring a fee.

Legislation is Necessary to Bring the Benefits of Electronic Wage Payment to Connecticut's Underserved Workers

A statutory amendment is necessary so that employees in Connecticut may implement beneficial electronic wage payment programs. In this regard, the APA supports legislative initiatives that ensure employees have full and free access to their wages on payday without imposing unnecessary and burdensome restrictions on employers. We have worked with consumer advocacy groups in the past to develop best practices for employers who use payroll cards. For example, in July of 2013 the APA joined forces with the National Consumer Law Center to develop sensible guidelines for implementing beneficial payroll card programs. In a press release announcing the guidelines, our organizations explained:

Though we represent different constituencies (low income consumers and payroll administrators), we agree that payroll cards can offer unbanked workers with an economical, safe and convenient way to receive their wages. For these workers, payroll cards can mean no check cashing fees, greater security without the risks of cash, access to pay despite natural disasters and the ability to make purchases over the internet and by telephone.

The press release (attached) goes on to identify eight guidelines that, if followed, "can result in a payroll card program that is mutually beneficial for both workers and employers." These guidelines emphasize full and free access to wages, employee choice, the use of payroll cards that are widely accepted (e.g., branded payroll cards), training and transparency of terms, free access to account information and deposit insurance. They also caution against unsafe overdraft protection programs. We believe that the amendments to S.B. 908 currently under discussion will meet and exceed these guidelines.

Conclusion

The APA urges Committee members to modify and approve S.B. 908, and modernize Connecticut's wage payment statutes. Please do not hesitate to contact me with any questions or for additional information. I can be reached at (650) 320-1824. Alternatively, please feel free to contact Bill Dunn, Director of Government Relations for the APA, at 202-232-6889.

Thank you for considering this important issue.

Cathy S. Beyda

Cathy Beyda, Esq.
American Payroll Association
Chair, Paycard Subcommittee, Government Relations Task Force